MT LEGISLATIVE HISTORY

Chapter 314 1969

Bill H 453 S _____ Original bill & hist. NO C

H. Committee on Public Health

Hearing Date(s) 1/16 ✓ C

1/29 ✓ C

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Date Out _____ C

Also H 335 replaced by 453

S. Committee on Pub. Hlth.

Hearing Date(s) _____ C

~~1/30~~ C

_____ C

2/15 C

2/24 C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Howard

January 16, 1969

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS

The Public Health, Welfare and Safety Committee met in Room 428A at 8 a.m., Thursday, January 16, 1969. Chairman Asbjornson presided. All members were present except Mr. Kosena.

Chairman Asbjornson opened hearings on House Bill #40. The following proponent of the bill appeared before this committee:

Mr. Russ Hegland, Executive Secretary of the Montana Medical Association. Mr. Hegland expressed his approval of House Bill #40 and provided material for two amendments to the bill.

The witness was excused.

Chairman Asbjornson then opened hearings on House Bill #35. The following proponents of the bill appeared before this committee:

Mr. James Lucas, Speaker of the House and sponsor of the bill. He stated that this bill, the "dangerous drug act" was very much needed, not only in our state but nationally; that there are some archaic laws which do not identify dangerous drugs. He then introduced Judge Wesley Castles, Chairman of the Crime Commission.

Judge Castles informed the committee that House Bill #35 is a very important piece of legislation and a very difficult one to prepare and draft. He said this bill would remove the gap in our old laws and allow search and seizure and warrants for such. He then introduced Dr. Van Horne, Dean of the University of Montana's School of Pharmacy; Professor Ellison, Vice Chairman of the Criminal Law Commission; Rod Gudgel, Executive Secretary of the State Pharmaceutical Association; and his main aid Mrs. Diane Dennis.

Professor Larry Ellison told the committee that they had drafted what they think to be one of the most comprehensive drug bills; it makes the dangerous drug act all encompassing and conforms to the scientific definition of terms. He stated that the bill is broken down into four categories: The first section shows the four classifications of drugs that have a high potential for abuse. The second section deals with the criminal penalties and criminal sanctions invoked. The third section, because of the type of offense involved, gives authority only to district court judges. The final section assigns to the State Board of Pharmacy the power to add new drugs as they become known so that we can keep up with the rapidly changing chemistry field. He stated that the drug problem has increased and is greater than it has ever been.

Judge Castles told the committee that this bill is not changing in any way the prescription of drugs in Montana. It is proposing [illegible] the title of the old narcotics act, with some minor

[illegible] opened hearings on House Bill #40. The following proponent of the bill appeared before this committee:

Mr. Russ Hegland, Executive Secretary of the Montana Medical Association. Mr. Hegland expressed his approval of House Bill #40 and provided material for two amendments to the bill.

The witness was excused.

Chairman Asbjornson then opened hearings on House Bill #35. The following proponents of the bill appeared before this committee:

Mr. James Lucas, Speaker of the House and sponsor of the bill. He stated that this bill, the "dangerous drug act" was very much needed, not only in our state but nationally; that there are some archaic laws which do not identify dangerous drugs. He then introduced Judge Wesley Castles, Chairman of the Crime Commission.

Judge Castles informed the committee that House Bill #35 is a very important piece of legislation and a very difficult one to prepare and draft. He said this bill would remove the gap in our old laws and allow search and seizure and warrants for such. He then introduced Dr. Van Horne, Dean of the University of Montana's School of Pharmacy; Professor Ellison, Vice Chairman of the Criminal Law Commission; Rod Gudgel, Executive Secretary of the State Pharmaceutical Association; and his main aid Mrs. Diane Dennis.

Professor Larry Ellison told the committee that they had drafted what they think to be one of the most comprehensive drug bills; it makes the dangerous drug act all encompassing and conforms to the scientific definition of terms. He stated that the bill is broken down into four categories: The first section shows the four classifications of drugs that have a high potential for abuse. The second section deals with the criminal penalties and criminal sanctions invoked. The third section, because of the type of offense involved, gives authority only to district court judges. The final section assigns to the State Board of Pharmacy the power to add new drugs as they become known so that we can keep up with the rapidly changing chemistry field. He stated that the drug problem has increased and is greater than it has ever been.

Judge Castles told the committee that this bill is not changing in any way the prescription of drugs in Montana. It is proposing to repeal the title of the old narcotics act, with some minor changes which Dean Van Horne will take up.

Dean Robert Van Horne told the committee that they no longer use the term addict but, instead, use drug dependency. He explained the different drugs, what categories they had been placed in and why.

Judge Castles called the attention of the committee to the fact that there were two members of the Crow Reservation present.

James Lucas presented a Memorandum for amendments to the bill to the Chairman.

[illegible] moved meeting adjourn[illegible]

[illegible] Stock Secretary.

J. O Asbjornson, Chairman

Dr. Cashmore explained to the committee that this act excludes physicians but the Medical Practice Act, HB #40, under Unprofessional Conduct, restricts physicians and how they use these drugs.

Chairman Asbjornson then opened the floor for questions.

Judge Castles said that after the Federal Act has designated a new drug as dangerous there is a hearing required before a drug can be included. Professor Ellison explained that Title 94 provides that when more than one offense has been committed, the penalties increase enormously.

A member of the Crow Reservation informed the committee that they were only present as they were concerned as to the use of Peyote in the bill. They said they have no objection to this bill.

Mr. Vernon Sloulin, of the Public Health Department, informed the committee that this act does repeal 2 sections of the Montana Food and Drug Act for which there is no objection but he wanted to see an amendment made on line 5, page 5, section 3. Judge Castles said there was nothing wrong with doing this as an added precaution.

Chairman Asbjornson said discussion on the bill would have to be delayed as there were some witnesses present on House Bill #137. The following proponents of HB #137 appeared before this committee:

Representative Dye, sponsor of the bill, told the committee that the responsible snowmobile dealers had spent the last 18 months researching other bills. Registration, which is a simplified form, is accomplished through the County Treasurer's Office. It excludes state and federal snow machines. He said Sections 7 and 8 provide where they can be lawfully used. Enforcement is in Sections 9, 10 and 11. The reason Fish & Game is in this act is they will probably handle all the law enforcement in the back country. Drivers will be fined for careless or reckless operation. The Chamber of Commerce is very definitely interested in this because the more we can open the country in the winter the better. He informed the committee that Pat Strong and Dean Nelson were present if there were any questions.

In response to a question, Mr. Dye said they had left the cost of registration fees to the Registrar of Motor Vehicles.

Mr. Nelson said the fee that comes up most often is about $5 on an annual basis. The reason for this is that there is more cost involved because it is the nature of these things that they are traded in often.

Mr. Dye stated that a State Chamber of Commerce gentleman was with them also. He said the bill does not exclude the barrow pit from use. If roads are unsurpassable for automobiles, snowmobiles are permitted. He feels it is time to control them if they are to be used to the best advantage in Montana.

animals in

Dr. John Anderson, Director of State Department of Health, appeared before the committee as a proponent of HB #215 and introduced Mr. Wils of the State Department of Health to answer any questions. Mr. Wilson said the department is already doing comprehensive health planning on order of the government and the primary purpose of this bill is to put it in the statutes so that they can explain whether or not this state agency is authorized to do comprehensive health planning. A question and answer period followed. Dr. Anderson told the committee that ther is a typographical error in the bill on line 10, on back of page 2 of the original bill, where it says "requested" it should be "bequested".

Chairman Asbjornson told the committee that, in view of the large numb of amendments to HB #35, the Steno Pool had requested that another bil be drawn and that now the committee would have to rescind their actior in passing HB #35 and keep it in committee and that they give a "do Pa to the replacement bill HB #453.

Mr. Steele moved that the committee rescind their action on House Bill #35 and that it remain in committee. Motion was seconded. Motion carried.

Mr. Feda moved that the committee recommend House Bill #453 "Do Pass" Motion was seconded. Motion carried.

Mr. Campbell moved that House Bill #80 "Do Pass". Motion was seconde Motion carried.

Mr. Fagg moved that House Bill #159 "Do Pass". Motion was seconded. Motion carried.

Mr. Healy moved that House Bill #178 "Do Pass". Mr. Steele seconded. Motion carried.

Mr. Feda moved that this committee recommend House Bill #182 "Do Not Motion was seconded. Mr. Himsl made a substitute motion that House B #182 "Do Pass". With a show of hands vote, substitute motion carried

Mr. Feda moved that House Bill #188 be moved to appropriations. Moti was seconded. Dr. Cashmore made a substitute motion that Section 2 c House Bill #188 be stricken in its entirety and subsequent sections b renumbered accordingly and further moved that that portion of the tit following the word "facilities" be stricken beginning with the words "provided for" and that, as so amended, the bill be recommended "Do Pass". /Motion carried.

Substitute

Mr. Cranston moved that House Bill #196 "Do Pass". Mr. Kosena secon Motion carried.

Mr. Shively moved that House Bill #215 "Do Pass". Motion was second Motion carried.

MINUTES

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
STATE SENATE

February 15, 1969

A meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Flynn in Room 402 on adjournment on February 14, 1969. Roll call was taken; Senator Bennett was absent.

HOUSE BILL 453: Judge Wesley Castles appeared before the committee urging their approval of HB 453. This bill, if adopted, would be referred to as the "Dangerous Drug Act," and would repeal the old Uniform Narcotics Act which he feels does not adequately describe anything but plain narcotics, not dangerous drugs. One objection to the present law is that no search and seizure of private dwellings is provided.

Dr. Traverse Stewart from Roche Laboratories, Nutley, New Jersey, appeared as a proponent stating that their company was in favor of the bill but that they noted a couple of problems in the bill. He introduced Dr. Leonard Hinze, Director of Biological Research, Roche Laboratories, who explained to the committee that their company did an extensive research project to find out if the two drugs as provided in Section 1, page 2, line 9 of the printed bill (chlordiazepoxide and diazepam), listed as "depressant drugs", had ever been abused to the extent that they needed to be regulated under this bill. Dr. Hinze had gone to Los Angeles, Sacramento, San Diego and Mexico to find out from law enforcement officers if they had records showing abuse of these two drugs and found they were not a problem. (Dr. Hinze mentioned that the third drug, oxazepam, should be treated in the same manner as the other two drugs mentioned above.)

Mr. Rod Gudgel, Executive Secretary of Montana State Pharmaceutical Association, explained that their Association was generally in favor of this bill but pointed out that there is no provision in the bill which would provide the necessary funds to carry out the stipulations in the bill. He estimated that the amount needed could be approximately $40,000 minimum for increased staff, etc. Their present budget is about $17,000 for one full-time and one half-time secretary.

Professor Larry Elison, University of Montana, Missoula, spoke as a proponent on HB 453. He explained that without this piece of legislation, there is no legislation that would handle severe drug problems. He favors the search and seizure provisions in this bill. He also favors the punishment or penalty section of this bill, setting a maximum penalty but not a minimum penalty.

Dr. Preston, formerly in the Western Montana Clinic in Missoula, currently with the Department of Clinical Research, Roche Laboratories, also appeared as a proponent of HB 453.

Chairman Flynn excused all of the witnesses.

The committee discussed the possibility of adding an effective date and a savings clause to HB 453. Since there was mention to objection of having manufacturers, etc. being licensed, the committee discussed having them register instead.

Upon suggestion of Senator Dzivi, Chairman Flynn will call in several law enforcement officers to hear testimony on the penalty section of this bill.

The meeting was adjourned.

Elmer Flynn
Senator Elmer Flynn, Chairman

Senator Bennett moved that HOUSE BILL 159 BE CONCURRED IN. Senator Dzivi seconded the motion and it carried.

Senator Dzivi read the proposed amendments to House Bill 40. Senator Reber moved to adopt the amendments. The motion was seconded by Senator Cochrane and carried.

Senator Reber moved that HOUSE BILL 40 AS AMENDED BE CONCURRED IN. The motion was seconded by Senator Sparks and carried.

Senator Dzivi read the proposed amendments to House Bill 453. Senator Reber moved to adopt the amendments. The motion was seconded by Senator Cochrane and carried.

Senator Reber moved that HOUSE BILL 453 AS AMENDED BE CONCURRED IN. Senator Bennett seconded the motion and it carried.

Senator Dzivi read the proposed amendments to House Bill 72. Senator Reber moved to adopt the amendments. The motion was seconded by Senator Bennett and carried.

Senator Dzivi moved that HOUSE BILL 72 AS AMENDED BE CONCURRED IN. Senator Reber seconded the motion and it carried.

Senator Bennett moved that HOUSE BILL 97 BE CONCURRED IN. Senator Sparks seconded the motion and it carried.

A motion by Senator Reber and second by Senator Sparks that House Bill 255 Be Not Concurred In was withdrawn.

The meeting was adjourned.

Senator Bollinger, Vice Chairman

Be it enacted by the Legislative Assembly of the State of Montana:

Financial administration of school districts.

Section 1. School districts or school districts and other public agencies entering into an interlocal cooperative agreement under the provisions of chapter 49, Title 16, R.C.M. 1947, shall be subject to the provisions of this act for the purposes of the financial administration of such agreement.

Prime agency.

Section 2. For the purposes of this act, the prime agency shall be the school district or other public agency vested with the financial administration of the interlocal cooperative agreement under the terms of such agreement and the cooperating agency shall be any school district or public agency other than the prime agency who is a party to the contract creating the interlocal cooperative agreement.

Special fund.

Section 3. When the prime agency is a school district, it is hereby authorized and required to establish a special nonbudgeted fund as provided in section 75-3722, R.C.M. 1947, for the purpose of the financial administration of the interlocal cooperative agreement. All revenues received, including federal, state, or other types of grant payments in direct support of the agreement and the financial support provided by cooperating agencies, shall be deposited in such special nonbudgeted fund. All financial support of the agreement contributed by the school district, designated as the prime agency, shall be transferred to the special nonbudgeted fund from any fund maintained by such school district by resolution of the board of trustees; provided that the transfer shall be made from a fund to finance expenditures of the interlocal cooperative agreement that are comparable to the statutory provisions creating such fund and within the currently adopted budget; and provided further that no transfer shall be made from fund VIII, miscellaneous federal funds, as provided in section 75-3722, R.C.M. 1947, without the express approval of the state superintendent. All expenditures in support of the interlocal cooperative agreement shall be made from the special nonbudgeted fund established by the school district prime agency; provided that expenditures in support of such agreement may be made from fund VIII, miscellaneous federal funds when the express approval of the state superintendent is given.

Transfer of financial support.

Section 4. When a school district is the cooperating agency, it is hereby authorized to transfer its financial support of the agreement under the interlocal cooperative contract to the prime agency by school district warrant. Such financial support may be provided from any fund maintained by the school district; provided that the fund utilized for the financial support shall finance only those expenditures of the interlocal cooperative agreement that are comparable to the statutory provisions creating such fund and within the currently adopted budget; and provided further that no financial support shall be financed from fund VIII, miscellaneous federal funds without the express approval of the state superintendent of public instruction.

Application to school districts.

Section 5. The statutory provisions of Title 75, R.C.M. 1947, shall apply to any and all school districts who are parties to an interlocal cooperative contract unless the specific provisions of this act or chapter 49, Title 16, R.C.M. 1947, are applicable.

Approved: March 11, 1969.

CHAPTER NO. 314

An Act Providing for Regulation of the Possession and Sale of Dangerous Drugs in the State of Montana; Defining Dangerous Drugs to Include Depressant, Stimulant, Hallucinogenic and Narcotic Drugs and Defining Certain Words and Phrases in Connection Therewith; Defining Who May Lawfully Sell and Possess Dangerous Drugs; Providing for the Fraudulent Obtaining of Dangerous Drugs or the Alteration of Labels; Providing for the Enforcement of Unlawful Sale and Possession; Providing for the State Board of Pharmacy to Regulate, License and Supervise, and Designate Other Dangerous Drugs After Proper Notice and Hearing; Amending Section 95-302, R.C.M. 1947, to Exclude Trial Jurisdiction in the Justices' Courts in Cases Commenced Under This Act; Repealing Sections 27-724, 27-725, 54-101 Through 54-128 Inclusive, 94-35-123, 94-35-148, 94-35-199, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

"Person." Section 1. **Definition of terms.** (a) "Person" includes an individual, partnership, corporation, association, trust or other institution or entity.

"Drug." (b) "Drug" means articles recognized in the official United States Pharmacopoeia, official Homopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them.

"Depressant drugs." (c) "Depressant drugs" include: Amobarbital, secobarbital, pentobarbital, phenobarbital, barbituric acid, glutethimide, meprobamate, chloral hydrate, paraldehyde, ethclorvynol, and ethinamate, or any product, derivative, compound or preparation containing any of the above listed drugs.

"Stimulant drugs." (d) "Stimulant drugs" include: Amphetamine, dextroamphetamine, mephentermine, methamphetamine and phenemetrazine, or any product, derivative or compound or preparation of the above listed drugs.

"Hallucinogenic drugs." (e) "Hallucinogenic drugs" include: Marihuana, lysergic acid diethylamide, psilocybin, dimethyltryptamine, methyltryptamine, peyote and mescaline or any product, derivative, compound or preparation of the above listed drugs.

"Narcotic drugs." (f) "Narcotic drugs" include: Opium, morphine, heroin, codeine, ethylmorphine, dihydromorphinone, isonipicaine, methadone and cocaine or any product, derivative, compound or preparation of the above listed drugs.

"Dangerous drug." (g) "Dangerous drug" means any depressant, stimulant, hallucinogenic or narcotic drug.

"Manufacture, etc." (h) The terms "manufacture, preparation, cultivation, compounding, or processing" shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package in furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer.

"Warehousing." (i) The term "warehousing" means the receipt and storage of goods for compensation prior to final delivery or sale to the ultimate consumer.

"Wholesaling, etc." (j) The term "wholesaling, jobbing or distribution" means the selling or distribution to any person who is not the ultimate user or consumer of such drug.

"Sell." (k) "Sell" means to sell, exchange, give or dispose of to another, or to offer or agree to do the same.

"Practitioner." (l) "Practitioner" means a physician, dentist, veterinarian, podiatrist or other person permitted by law to prescribe drugs.

"Manufacturer." (m) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares dangerous drugs, but does not include a pharmacist who compounds dangerous drugs to be sold or dispensed on prescriptions.

(n) Masculine words shall include the feminine and neuter and singular includes the plural.

"Prescription." (o) The term "prescription" shall be given the meaning it has in R.C.M. 1947, Section 66-1502(n).

"Montana Dangerous Drug Act." (p) This act may be cited as the "Montana Dangerous Drug Act."

Authority of board. Section 2. **Authority of the state board of pharmacy to enact regulations, impose fees and designate dangerous drugs.**

Registration and licensing. (a) Registration and licensing. The state board of pharmacy is hereby authorized to register manufacturers, and to license, regulate and supervise the warehousing, wholesaling, distributing, sale, purchase, dispensing and any other processing of all dangerous drugs, which is necessary to carry out the enforcement of this act.

Fees. (b) **Fees.** The state board of pharmacy is hereby authorized to require registration and license fees in an amount to be fixed by the board, which fees shall not exceed one hundred dollars ($100) per year.

Dangerous drug designation. (c) **Dangerous drug designation.** Any drug designated by the state board of pharmacy as a dangerous drug because of its depressant, stimulant, hallucinogenic or narcotic effects, after notice, hearing and publication as required by law, shall be added to the appropriate definitions of section (c), (d), (e), or (f) of section 1 for the purpose of the Montana Dangerous Drug Act.

Penalties.

(d) **Penalties.** Failure to register or be licensed as provided for shall be a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed one (1) year, or both.

Dangerous drugs—persons and preparations exempt.

Section 3. **Dangerous drugs — persons and preparations exempt from the prohibition.** (1) The following medicinal preparations are excepted from the designated criminal offenses of sections 4 and 5 of this act when combined with therapeutically active or inactive non-narcotic ingredients:

(a) A preparation which contains not more than 64.8 mg. (1 grain) of codeine or any of its salts, per one fluid ounce, or one avoirdupois ounce.

(b) Any preparation which contains cotarnine, nalorphine, narceine, noscapine, or papaverine in any quantity. These medicinal preparations must contain, in addition to the narcotic drug in it, other medicinal qualities; and be administered, dispensed and sold in good faith as a medicine, not for the purpose of evading this act.

(2) The following persons are excepted from the designated criminal offenses of sections 4 and 5 of this act while acting in the ordinary and authorized course of their business, profession, occupation, employment or religious activity and whose activities in connection with dangerous drugs are solely as specified in this section;

(a) Persons regularly engaged in manufacture, preparation, cultivation, compounding and processing who are qualified in conformance with law, in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, wholesale druggists, or by direct shipment, (1) to pharmacies or to hospitals, clinics, public health agencies, long term care facilities, or practitioners, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners, or (2) to laboratories or research or educational institutions for their use in research, teaching or chemical analysis.

(b) Suppliers (otherwise qualified in conformance with law) of persons regularly engaged in manufacture, preparation, cultivation, compounding and processing referred to in subsection (a).

(c) Wholesale druggists who maintain establishments in conformance with law and are regularly engaged in supplying prescription drugs (1) to pharmacies, or to hospitals, clinics, public health agencies, long term care facilities, or practitioners, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners or (2) to laboratories or research or educational institutions for their use in research, teaching or clinical analysis.

(d) Registered pharmacists who are authorized to dispense dangerous drugs.

(e) Practitioners who prescribe or administer dangerous drugs.

(f) Persons associated with a bona fide educational institution who use dangerous drugs in research, teaching or chemical analysis and not for sale.

(g) A common on contract carrier or warehouseman, whose possession of any dangerous drug is in the usual course of his business or employment as such.

(h) Officers and employees of the state, or a political subdivision of the state, while acting in the course of their official duties.

(i) An employee or agent of any person described in pargraph (a) through (g) of this subsection, and nurse or other medical technician under the supervision of a practitioner who administers dangerous drugs, while such employee, nurse or medical technician is acting in the course of his employment or occupation and not on his own account.

(j) A person to whom or for whose use any dangerous drug has been prescribed, sold, or dispensed by an authorized practitioner or pharmacist may lawfully possess such drug.

(k) Any bona fide religious organization incorporated under the laws of the state of Montana while transporting, possessing or using peyote (pellote) for religious sacramental purposes.

Nothing in this section shall be construed to prohibit or interfere with the discretion of a practitioner in good faith to prescribe or administer any dangerous drug to

a patient for the treatment of a disease or condition according to his needs and to medical practice. Addiction, dependence or habitual use of a dangerous drug shall be deemed a "disease or condition" and the prescription, administration or dispensation of a dangerous drug to relieve conditions incident to such addiction or habitual use shall be deemed "treatment of a disease or condition."

Nothing in this act shall be construed to relieve any person from any requirement prescribed by or under authority of Title 27, R.C.M. 1947.

Criminal sale of dangerous drugs.

Section 4. **Criminal sale of dangerous drugs.**

(a) A person commits the offense of a criminal sale of dangerous drugs if he sells, manufactures, prepares, cultivates, compounds or processes any dangerous drug as defined in this act and does not come within the exceptions of section 3.

(b) A person convicted of criminal sale of dangerous drugs shall be imprisoned in the state prison for a term not less than one (1) year nor more than life. Any person of the age of 21 years or under convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence.

Criminal possession of dangerous drugs.

Section 5. **Criminal possession of dangerous drugs.**

(a) A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug as defined in this act and does not come within the exceptions of section 3.

(b) A person convicted of criminal possession of dangerous drugs shall be imprisoned by imprisonment in the state prison not to exceed five (5) years. Any person of the age of 21 years or under convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence.

Fraudulently obtaining dangerous drugs.

Section 6. **Fraudulently obtaining dangerous drugs.** A person commits the offense of fraudulently obtaining dangerous drugs if he obtains or attempts to obtain a dangerous drug by (a) fraud, deceit, misrepresentation or subterfuge; (b) falsely assuming the title of, or representing himself to be a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other persons authorized to possess dangerous drugs; (c) the use of a forged, altered or fictitious prescription; (d) the use of a false name or a false address on a prescription or; (e) the concealment of a material fact.

Altering labels on dangerous drugs.

Section 7. **Altering labels on dangerous drugs.** A person commits the offense of altering labels on dangerous drugs if he affixes a false, forged, or altered label to a package or receptacle containing a dangerous drug, or otherwise misrepresents the package containing a dangerous drug.

Penalty.

Section 8. **Penalty for fraudulently obtaining dangerours drugs or altering the labels of dangerous drugs.** A person convicted of fraudulently obtaining dangerous drugs or altering the labels on dangerous drugs shall be imprisoned in the county jail for a term not to exceed six (6) months.

Alternative sentencing authority.

Section 9. **Alternative sentencing authority.**

A person convicted of criminal possession of dangerous drugs, fraudulently obtaining dangerous drugs or altering labels on dangerous drugs, if he is shown to be an excessive or habitual user of dangerous drugs either from the face of the record or by a pre-sentence investigation, may in lieu of imprisonment, be committed to the custody of any institution for rehabilitative treatment for not less than six months nor more than two (2) years.

Jurisdiction.

Section 10. **Jurisdiction.** The district court shall have exclusive trial jurisdiction over all prosecutions commenced under the Montana Dangerous Drug Act.

Amending clause.

Section 11. Section 95-302(a) R.C.M. 1947, shall be amended to read as follows:

Jurisdiction of justice courts.

"95-302. **Jurisdiction of the justice of the peace courts.** The justices' courts have:

(a) Jurisdiction of all misdemeanors punishable by a fine not exceeding five hundred dollars ($500) or imprisonment not exceeding six (6) months, or both such fine and imprisonment; *excluding jurisdiction in cases commenced under the Montana Dangerous Drug Act except to act as examining and committing courts and to conduct preliminary hearings as provided in subsection (c).*

(b) Concurrent jurisdiction, with district courts, of all misdemeanors punishable by a fine only, not exceeding fifteen hundred dollars ($1,500); and

(c) Jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings."

Power of board.

Section 12. The following power of the Montana state board of pharmacy shall be inserted following section 66-1504, R.C.M. 1947, and shall be cited as section 66-1504.1, R.C.M. 1947:

(a) The Montana state board of pharmacy shall have the power to designate by regulation any drug that is not now included under the present Montana Dangerous Drug Act as coming within that act when: (1) the board after investigation finds such drug to have a potential for abuse because of its depressant, stimulant, hallucinogenic or narcotic effect; (2) the appropriate federal drug authorities have promulgated regulations on such drug because of its depressant, stimulant, hallucinogenic or narcotic effect or its potential for abuse. The board may from time to time appoint a committee of experts to advise them with regard to any of the above matters involved in determining whether a regulation should be proposed.

(b) Before any drug shall be designated as a dangerous drug the board shall hold a public hearing. Notice of the hearing specifying the drug concerned shall be published at least once a week for three (3) consecutive weeks in five (5) newspapers of general circulation throughout the state.

(c) The regulations of the board in designating a substance as a dangerous drug coming within the Montana Dangerous Drug Act shall be published in such manner to such extent as the board may deem necessary to adequately notify the public.

Saving clause.

Section 13. If any section, subsection, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Repealing clause.

Section 14. Sections 27-724, 27-725, 54-101, 54-102, 54-103, 54-104, 54-105, 54-106, 54-107, 54-108, 54-109, 54-110, 54-111, 54-112, 54-113, 54-114, 54-115, 54-116, 54-117,

54-118, 54-119, 54-120, 54-121, 54-122, 54-123, 54-124, 54-125, 54-126, 54-127, 54-128, 94-35-123, 94-35-148, 94-35-199, R.C.M. 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Section 15. This act shall become effective immediately upon its passage and approval.

Effective immediately.

Approved: March 11, 1969.

CHAPTER NO. 315

An Act Amending Section 75-4246, R.C.M. 1947, to Provide That the State Board for Vocational Education Shall Apportion State and Federal Funds for Vocational Education in Accordance With the Directives of the State Legislature and Applicable Acts of Congress.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-4246, R.C.M. 1947, is amended to read as follows:

Amending clause.

"75-4246. **Apportionment of funds for vocational education.** The state board *for vocational* education shall apportion all moneys appropriated *by the legislature* for vocational education *in accordance with the intent of the legislature as reflected in the terms of the appropriation, and the said state board shall apportion all money received by the state of Montana for vocational education from the federal government under the acts of Congress mentioned in section 75-4241 in accordance with the requirements of said acts.*"

Apportionment of funds for vocational education.

Approved: March 11, 1969.

CHAPTER NO. 316

An Act Amending Section 75-1303, R.C.M. 1947, Changing Certain Titles of Members of the Staff of the Superintendent of Public Instruction.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1303, R.C.M. 1947, is amended to read as follows:

Amending clause.